

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ANDREW M. MILLER,)	
)	
Plaintiff,)	8:04CV500
)	
vs.)	ORDER
)	
KELLOGG USA, INC.,)	
)	
Defendant.)	

This matter is before the court on the Joint Motion for an Amended Progression Order (Filing No. 41) and the plaintiff's Request for Entry Upon Land for Inspection and Measurement (Filing No. 40). On December 21, 2005, and again on January 5, 2006, counsel for the plaintiff notified the court the plaintiff's request for entry should be withdrawn from consideration, but the plaintiff has failed to file any motion to that effect. The plaintiff's request for entry will be denied and the parties' joint motion will be granted as set forth below,

IT IS ORDERED:

1. The plaintiff's Request for Entry Upon Land for Inspection and Measurement (Filing No. 40) is denied.
2. The Joint Motion for an Amended Progression Order (Filing No. 41) is granted as set forth below.
3. **Deposition Deadline.** All depositions of all fact witnesses previously disclosed in the Pre-Trial Orders and agreed by counsel, whether or not they are intended to be used at trial, shall be completed **no later than January 31, 2006**. These fact witnesses are limited to Marv Ellis, Gerald Dailey, Pat Munch, Tom Wagner, Ben Reedy, Brian Christensen, Randy Moore, Jan Barnhart, R.N., Betty Mabry, Chris Haynes, Greg Quinn and Mike Jens.
4. **Depositions of Experts.** The discovery depositions of experts and the videotape deposition testimony of experts to be played at trial in lieu of live testimony shall be completed **by March 1, 2006**.
5. **Deposition Testimony.** The portions of each deposition and each discovery response which each party intends to offer shall be designated **on or before May 1, 2006**.

6. **Trial Exhibits.** A list of all the exhibits each party expects to offer shall be designated **on or before May 1, 2006.**

7. Any Motion in Limine challenging the admissibility of testimony of an expert witness shall be filed **on or before February 17, 2006.** All other Motions in Limine shall be filed **no later than May 8, 2006.**

8. All motions for summary judgment shall be filed **on or before February 17, 2006.** See NECivR 56.1 and 7.1.

9. The Final Pretrial Conference with the undersigned magistrate judge is continued until **May 12, 2006, at 9:00 a.m.** in chambers, Suite 2271, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

10. **Trial** remains scheduled to commence **at 8:30 a.m. on May 22, 2006,** in Omaha, Nebraska, before the Honorable Joseph F. Bataillon and a jury.

11. **On or before February 3, 2006,** the parties are to provide a status report regarding settlement negotiation. The report shall be in the form of a letter to the court from the plaintiff on behalf of all of the parties.

Dated this 6th day of January, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge